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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/467,231	12/20/1999	TOSHIHIKO MUNETSUGU	32161	2093

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EXAMINER

NGUYEN, MAIKHANH

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/467,231	Applicant(s) MUNETSUGU ET AL.	
	Examiner Maikhanh Nguyen	Art Unit 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: Amendment filed 12/16/2005 to the original application filed 12/20/1999.
2. Claims 55-82 are currently pending in this application. Claims 1-54 have been cancelled. Claims 55, 61, 67, and 75 are independent claims.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 C.F.R. ' 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. ' 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Pending claims 55-82 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of copending Application No. 10/733,981 (hereinafter '981). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

As to pending claims 55, 61, 67, and 75, claims 1, 9, 17, and 27 of '981' teach substantially the same limitations as taught in pending independent claims 55, 61, 67, and 75.

Claims 1, 9, 17, and 27 of '981' do not specifically teach that the scores are "inputted". However, since claims 1, 9, 17, and 27 of '981' teach "an input means for inputting content description ...", it would have been obvious to one of ordinary skill in the art at the time the invention to allow other aspects of the apparatus, including scores, to be inputted as well, providing the benefit of increased customization as applied to the various data involved.

Claims 1, 9, 17, and 27 of '981' do not specifically teach importance based on "context". However, claims 1, 9, 17, and 27 of '981' teach importance based upon a "viewpoint". Since a person's viewpoint is based at least in part upon the context involved, it would have been obvious to one of ordinary skill in the art at the time of the invention to interpret a viewpoint as such (i.e. associated with, and dependent upon, context), providing the benefit of increased accuracy of analysis.

As to pending claims 56-60, 62-66, 68-74, and 76-82, claims 2-8, 10-16, 18-26, and 28-36, repeatedly, teach substantially the same as pending claims 56-60, 62-66, 68-74, and 76-82.

This is provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patent.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(b) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 55, 57-61, 63-67, 69-75, and 77-82 remain rejected under 35 U.S.C. 103(a) as being unpatentable over **Mauldin et al.** (U.S. 5,664,227, issued 09/1997).

As to claim 61:

- a. Mauldin teaches a data processing apparatus comprising:
 - (i) inputting content description data describing plurality of segments in which each of said plurality of segments represents a scene of media content constituted by a plurality of scenes (*e.g., the video data 20 is input into an image process function ...then segmenting that digitalized video data into paragraph based on content; col.5, lines 16-29 and Fig.2, element 18 and 20*); and
 - (ii) selecting one of said plurality of segments (*e.g., selecting representative frames from each of the video segments; col.3, lines 21-31/ the selection of video segments; col.5, lines 10-15*).
- b. Mauldin does not specifically teach “*inputting scores that are attribute information of the media content representing degree of relative importance of each of said plurality of segments based on context of the media content*” as claimed. However, Mauldin suggests “*the TF-IDF process assigns **weights** to a particular terms based on the frequency which those terms appear in a short segment i.e., audio corresponding to a video paragraph, in relation to the frequency those terms appear in an entire transcript ...to determine the relative importance of a word*” (col.8, lines 1-15 & also see fig.2 and the associated text).
- c. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have applied Mauldin’s teachings to include “*inputting scores that are attribute information of the media content representing degree of relative importance of each of said plurality of segments based on context of the*

media content” because it would have provided the capability for performing high speed scans of digital video segments by presenting quick representations of scenes (as taught by Mauldin; col.8, lines 55-58).

As to claim 63:

Mauldin teaches the content description data includes supplemental information (*col.5, lines 60-64*).

As to claim 64:

Mauldin teaches the media content corresponds to video data and/or audio data (*e.g., element 18 and 20 in Fig. 2*).

As to claim 65:

Mauldin teaches each of the plurality of segments is provided with linkage information for linking to dominant data that presents the segment (*col.8, lines 15-25*).

As to claim 66:

Mauldin teaches the dominant data is text data, image data and/or audio data (*col.4, lines 53-67*).

As to claim 55:

It is directed to a data processing apparatus for performing the method of claim 61, and is similarly rejected under the same rationale.

As to claims 57-60:

They include the same limitations as in claims 63-66, respectively, and are similarly rejected under the same rationale.

As to claim 75:

The rejection of independent claim 61 above is incorporated herein in full. Additionally, Mauldin teaches a plurality of scenes that are marked off by time according to scene boundary (*e.g., to identify segment boundaries, the image processing function 231 locates beginning and end points for each shot, scene, conversation, or the like by applying machine vision methods the interpret image sequences; col.5, lines 16-29*).

As to claims 77-80:

They include the same limitations as in claims 63-66, respectively, and are similarly rejected under the same rationale.

As to claims 81-82:

Mauldin teaches the time information includes a starting time and ending time of each the plurality of scenes (*e.g., scenes begin and end; col.8, lines 45-58 / time stamp 233 & 229 in Fig.2*).

As to claim 67:

It is directed to a data processing apparatus for performing the method of claim 75, and is similarly rejected under the same rationale.

As to claims 69-74:

They include the same limitations as in claims 77-82, respectively, and are similarly rejected under the same rationale.

7. Claims 56, 62, 68, and 76 remain rejected under 35 U.S.C. 103(a) as being unpatentable over **Mauldin et al.** in view of **Ozsoyoglu et al.** "Automating the Assembly of Presentation from Multimedia Databases", issued 1996.

As to claims 56, 62, 68 and 76:

- a. Mauldin does not specifically teach “the plurality of segments are hierarchically.”
- b. Ozsoyoglu teaches the plurality of segments are hierarchically described (*e.g., each segment in the multimedia is denoted by a node; page 595, left column & Figs.3.1 & 3.2*).
- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ozsoyoglu and Mauldin because Ozsoyoglu’s teachings would have provided the capability for efficiently organizing the segments of multimedia contents.

Response to Arguments

- 8. Applicant’s arguments filed 12/16/2005 have been fully considered but they are not persuasive.
 - a. Applicant argues that *the Examiner has obtained the motivation from the application itself, which is improper hindsight motivation* [Remarks, page 4].

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based

upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. *In re McLaughlin*, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

- b. Applicant argues that *there is no suggestion in any of the references of inputting any data including "scores" as recited in the claims* [Remarks, page 5].

In response, Mauldin's suggestion "*the TF-IDF process assigns weights to a particular terms based on the frequency which those terms appear in a short segment i.e., audio corresponding to a video paragraph, in relation to the frequency those terms appear in an entire transcript ...to determine the relative importance of a word*" (col.7, line 66-col.8, line 15 & also see fig.2 and the associated text) could be applied to include "*inputting scores that are attribute information of the media content representing degree of relative importance of each of said plurality of segments based on context of the media content*" as claimed.

- c. Applicant argues that none of the references teach inputting data [Remarks, page 5].

In response, Mauldin teaches inputting data (*e.g., the video data 20 is input into*

an image process function ...then segmenting that digitalized video data into paragraph based on content; col.5, lines 16-29 and Fig.2, element 18 and 20).

- d. Applicant argues that *the Examiner has not provided the proper motivation for combining the references ... the Examiner must show that there is some suggestion or motivation to modify the reference* [Remarks, page 5].

Examiner notes that the test for the relevance of a cited combination of references is: "whether the teachings of the prior art, taken as a whole, would have made obvious the claimed invention," *In re Gorman*, 933 F.2d at 986, 18 USPQ2d at 1888. Subject matter is unpatentable under section 103 if it would have been obvious ... to a person having ordinary skill in the art. While there must be some teaching, reason, suggestion, or motivation to combine existing elements to produce the claimed device, it is not necessary that the cited references or prior art specifically suggest making the combination: *In re Nilssen*, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (Fed. Cir. 1988)." Such suggestion or motivation to combine prior art teachings can derive solely from the existence of a teaching, which one of ordinary skill in the art would be presumed to know, and the use of that teaching to solve the same [or] similar problem which it addresses. *In re Wood*, 599 F.2d 1032, 1037, 202 USPQ 171, 174 (CCPA 1979). "In sum, it is off the mark for litigants to argue, as many do, that an invention cannot be held to have been obvious unless a suggestion to combine prior art teachings is found in a

specific reference.” *In re Oetiker*, 24 USPQ2d 1443 (CAFC 1992).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact information


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Heather Herndon can be reached at (571) 272-4136.

Art Unit: 2176

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN


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